

M. Kathryn Hoover, SBA #013266  
NAVAJO NATION DEPARTMENT OF JUSTICE  
PO Drawer 2010  
Window Rock, Navajo Nation (AZ) 86515  
(928) 871.7510  
khoover@nndoj.org

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Jeffrey S. Leonard SBA #003809  
Judith M. Dworkin SBA #010849  
Evan F. Hiller SBA #028214  
Joe W. Keene SBA #032623  
SACKS TIERNEY P.A.  
4250 N. Drinkwater Blvd., 4th Floor  
Scottsdale, AZ 85251-3693  
(480) 425.2600  
Jeffrey.Leonard@SacksTierney.com  
Judith.Dworkin@SacksTierney.com  
Evan.Hiller@SacksTierney.com  
Joe.Keene@SacksTierney.com

*Attorneys for the Navajo Nation*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF APACHE

IN RE THE GENERAL  
ADJUDICATION OF ALL RIGHTS  
TO USE WATER IN THE LITTLE  
COLORADO RIVER SYSTEM

Case No. CV6417-300

NAVAJO NATION'S AMENDED  
STATEMENT OF CLAIMANT- PHASE II  
CLAIMS (CULTURAL, UNIQUE TRIBAL,  
RECREATIONAL, FISH, WILDLIFE AND  
CONSERVATION, MINING, AND HEAVY  
INDUSTRIAL/COMMERCIAL)

(Assigned to Special Master Susan W. Harris)

**CONTESTED CASE:** *In re Navajo Nation*, Case No. CV6417-300

**DESCRIPTIVE SUMMARY:** The Navajo Nation's Amended Statement of Claimant – Phase II Claims (Cultural, Unique Tribal, Recreational, Fish, Wildlife and Conservation, Mining, and Heavy Industrial/Commercial).

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1 **I. INTRODUCTION**

2 The Navajo Nation (sometimes "Nation") files this, its Amended Statement of  
3 Claimant for water uses within the following categories: cultural and unique tribal uses;  
4 recreational, fish, wildlife and conservation uses; mining uses; and heavy  
5 industrial/commercial uses. By Order of December 28, 2016, the Special Master established  
6 the schedule for the Navajo Nation and the United States as the Nation's trustee to file  
7 amended statements of claimant. The schedule has been amended twice by Order of  
8 December 21, 2018 and Order of May 29, 2020. Rather than file a single statement of  
9 claimant with all uses included, accepting the joint recommendation of the Navajo Nation  
10 and the United States, the Special Master ordered that three separate statements of claimant  
11 be filed for specific uses.

12 The Navajo Nation, on its own behalf and for its members,<sup>1</sup> submits the *Navajo*  
13 *Nation's Amended Statement of Claimant - Phase II Claims (Cultural, Unique Tribal,*  
14 *Recreational, Fish, Wildlife and Conservation, Mining, and Heavy Industrial/Commercial)*  
15 *("Amended Statement of Claimant – Phase II")* for the historic, present, and future cultural,  
16 unique tribal, recreational, fish, wildlife and conservation, mining, and heavy  
17 industrial/commercial water uses on the Navajo Reservation. In so doing, the Navajo Nation  
18 does not waive any objections it may have to the jurisdiction of this Court or to the propriety  
19 of the Arizona adjudication proceedings. Nor does this submission constitute any waiver of  
20 the sovereign powers of the Navajo Nation to make and be governed by its own laws and to  
21 regulate and control the use and development of the resources, including water resources,  
22 within its jurisdiction.

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23  
24 <sup>1</sup> The Navajo Nation does not represent the interests of Navajo tribal members in Reservation  
25 allotments, which are represented by the United States. However, the Nation holds an  
26 interest in many of these allotments and represents its own interest in this contested case,  
27 together with the United States as trustee. The Nation is informed that the United States  
28 takes the position that its Phase II claims on behalf of the Nation include claims for  
allotments, despite the fact that none of its proposed Phase II claims appear to be consistent  
with the purposes for which the allotments were granted or viable on Reservation allotments.  
The Nation believes that no claims for allotments are properly asserted in this Phase II  
subproceeding.

## II. LEGAL BASIS FOR WATER RIGHT CLAIMS

Indian tribes are entitled to a right to use water based on two distinct principles of federal law. First, an Indian tribe may retain certain rights when the tribe enters into a treaty with the United States. *Winans v. United States*, 198 U.S. 371, 381 (1905) (“[T]he treaty was not a grant of rights to the Indians, but a grant of right from them, -a reservation of those not granted.”). The federal courts, following *Winans*, continue to recognize that an Indian tribe occupying its aboriginal territory retains for itself all rights not expressly granted by the tribe. *See, e.g. United States v. Ahtanum Irrigation Dist.*, 236 F.2d 321 (9th Cir. 1956), *cert. denied*, 352 U.S. 988 (1957) (recognizing Indians’ right to use water based on their right of use and occupancy). “*Winans* rights essentially are recognized aboriginal rights.” 2 Waters and Water Rights § 37.02(a)(2) (2020). “[T]he scope of a *Winans* right is dependent on actual use over an extended period of time, although it is not a function of the extent of land title. *Winans* rights preserve pre-existing uses, rather than establishing new uses.” *Id.* The priority date for *Winans* rights dates from “time immemorial.” *Id.*

Second, the Supreme Court has long recognized that when the federal government reserves land for a reservation it impliedly reserves unappropriated water to serve the purposes for which the lands were reserved. *Winters v. United States*, 207 U.S. 564 (1908) (establishing the federal reserved water rights doctrine as applicable to Indian tribes); *Arizona v. California*, 373 U.S. 5467 (1963) (applying the federal reserved rights doctrine to recognize water rights in five Arizona tribes located on and near the Colorado River).

The priority date for a tribal federal reserved right is dictated by the first federal action demonstrating the federal government’s intent to set aside lands for an Indian tribe. *United States v. Walker River Irr. Dist.*, 104 F.2d 334, 337 (9th Cir. 1939) (setting aside of lands in 1859 determined priority, rather than 1874 executive order). When a tribe has entered into one or more treaties with the United States, the priority date for federal reserved rights is established from the date of the treaty promising to establish a reservation and not the later federal actions establishing the boundaries of the reservation. *Martinez v. Lewis*, 116 N.M. 194, 201, 861 P.2d 235, 242 (App. 1993) (rejecting as the basis of priority Executive Orders



1 establishing the Mescalero Apache Reservation and holding the priority of the Tribe's  
2 reserved water right date from the Treaty of 1852 in which the United States “promise[d] to  
3 designate the Apaches’ territorial boundaries at its earliest convenience.”); *see also United*  
4 *States v. Carpenter*, 111 U.S. 347 (1884) (1859 Treaty promising to survey lands for Indian  
5 purposes was determinative of priority of rights, rather than later date when survey was  
6 accomplished in 1872). The Navajo Nation is a party to two treaties with the United States.  
7 In the Treaty Between the United States of America and the Navajo Tribe of Indians, 9 Stat.  
8 974 (Sept. 9, 1849) (“1849 Peace Treaty”), in language virtually identical to that relied by  
9 the Court in *Lewis*, the United States promised it would “at its earliest convenience designate,  
10 settle and adjust [the Navajo Tribe's] territorial boundaries.” *Id.* at art. IX. In the Treaty with  
11 the Navaho, 1868, 15 Stat. 667 (Jun. 1, 1868) (“1868 Treaty”), the United States began to  
12 fulfill the promise made in the 1849 Peace Treaty and established the initial boundaries of  
13 the Navajo Reservation. Between 1878 and 1934, the United States added to the land base of  
14 the Navajo Reservation through numerous executive orders and congressional acts. Other  
15 land transactions by the United States and the Navajo Nation have further expanded the  
16 Navajo Reservation.

17 Finally, the federal courts have recognized that an Indian tribe may have both *Winans*  
18 and *Winters* right claims. *United States v. Adair*, 723 F.2d 1394, 1408, 1415-16 (9th Cir.  
19 1984) (“affirm[ing] the district court's decision that the Klamath Tribe is entitled to a  
20 reservation of water, with a priority date of immemorial use, sufficient to support exercise of  
21 treaty hunting and fishing rights” and a priority date of the treaty in 1864 for irrigation uses).

22 The Navajo Nation claims the following priority dates<sup>2</sup> for its water rights:

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23  
24 <sup>2</sup> The Hopi Tribe has suggested that the decisions in the Hopi Priority contested case should  
25 be applied as the law of the case in this contested case to determine the rights of the Navajo  
26 Nation. *Hopi Tribe's Suggestion of Issues to be Summarily Adjudicated in Contested Case*  
27 *Regarding Navajo Priority* (Mar. 16, 2018) at 2. However, the Navajo Nation, unlike the  
28 Hopi Tribe, entered into two treaties with the United States, giving rise to factual and legal  
differences in the status of the two tribes and their water rights claims. The Special Master  
has directed that these issues will be determined in the course of this contested case. *Minute*  
*Entry* (Apr. 24, 2018).

1           1.     For Reservation lands within the June 1, 1868 Treaty boundary, the Nation  
2 claims a priority date of time immemorial for past and present water uses initiated before the  
3 creation of the reservation – including cultural, unique tribal, fish, wildlife and conservation  
4 uses. These are aboriginal lands of the Navajo people, to which the Nation continues to hold  
5 aboriginal title as recognized by the Indian Claims Commission ("ICC") *See* Exhibit 1. For  
6 future uses, including mining, heavy industrial/commercial, and recreation uses, the Nation  
7 claims a priority date based on the 1849 Peace Treaty.

8           2.     For Reservation lands within the original aboriginal territory of the Navajo  
9 people as recognized by the ICC, but outside the 1868 Treaty boundary and determined to  
10 be extinguished by the Treaty of 1868, the Nation claims a time immemorial priority for uses  
11 that predate the 1849 Treaty and continue to the present – including cultural, unique tribal,  
12 fish, wildlife and conservation uses. *See* Exhibit 1. For future uses, including mining, heavy  
13 industrial/ commercial, and recreation uses, the Nation claims a priority date based on the  
14 1849 Peace Treaty.

15           3.     For all other Reservation lands, the Navajo Nation claims a time immemorial  
16 priority for uses that predate the 1849 Treaty and continue to the present – including cultural,  
17 unique tribal, fish, wildlife and conservation uses. *See* Exhibit 1. The ICC acknowledged  
18 uses of Navajo people beyond the exclusive aboriginal territory identified in its decision. For  
19 future uses, including mining, heavy industrial/commercial, and recreation uses, the Nation  
20 claims a priority date based on the 1849 Peace Treaty.

21           Exhibit 1, "Navajo Nation Comprehensive LCRB Map," identifies the following:

- 22           • Lands determined by the ICC to be within the Navajo Nation's aboriginal  
23 territory<sup>3</sup>;
- 24           • Lands set aside by the 1868 Treaty Reservation;
- 25           • Lands added by subsequent Executive Orders and Congressional Acts to the  
26 Navajo Reservation;

27  
28 <sup>3</sup> The Navajo Nation disputes the final determination of Navajo aboriginal title by the ICC  
as applied to the determination of priority in this proceeding.

- LCR Basin boundary;
- Current Navajo Chapter political boundaries; and
- Current Navajo Nation Reservation boundary.

### III. IMPORTANCE OF WATER TO NAVAJO PEOPLE AND NAVAJO CULTURE

The significance of water to the *Diné* can be summed up in the Navajo phrase, “*To eii iina*,” water is life. The importance of water and teachings concerning its importance can be traced to the very beginnings of Navajo existence. It is a commonly held belief that water is the first food and water is the first medicine. Water is fundamental to creating and sustaining all life. The nature and symbolism of water for Navajos is comprehensively interwoven throughout the origins of the earth, of the people, and the cosmos. Many events from the Navajo journey originating in the First World, continuing through the Second, Third Worlds, and finally emerging into the Glittering World are connected with this essential element of life - water. Beings throughout Navajo narrative history either act on behalf of water, personify aspects of water, or teach about the sacredness of life and water.

#### *Origins of the Navajo People<sup>4</sup>*

In the First or Black World, *Ni’ Hodilhił*, the *Diyin Diné* (Holy People/Beings) inhabited the earth. “The Holy Beings include all the flora and fauna and natural forces such as water, wind and climate; they also include the stars and planets and celestial movements and phenomena; and they include the supernatural personification or manifestation of each of the life forms and forces.” *Id.* The First World was a dark and watery world with sparse land. Sea creatures such as Water Monster, Fish People and other small animlas inhabited the world. Due to the disastrous conditions, these beings left and traveled up to the Second World.

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<sup>4</sup> The *Diné Bahane* (Story of the People) is much more intricate than as presented in this Amended Statement of Claimant. The account included herein is provided to demonstrate the general knowledge held by many Navajo as to the historical, cultural, spiritual, and sacred aspects of water and how this element is interwoven throughout the Navajo experience and future.

1 The Second or Blue World, *Ni' Hodootł'izh*, was populated by more beings, such as  
2 ants and birds. Water Monster, *Tééhooltsódii*, also inhabited this world and would capture  
3 those wandering too close to streams and ponds. After a passage of time, these beings left  
4 and journeyed into the Third World.

5 In the Third or Yellow World, *Ni' Haltsooi*, emerged six mountains and two great  
6 rivers, a male river and a female river. This world was inhabited by many more beings, Cave  
7 Dwellers, "Swallow People," and four legged animals. Discord erupted among the people  
8 causing a separation of the sexes and the subsequent creation of monsters. It was also at this  
9 time that Coyote stole Water Monster's babies. Water Monster in turn angrily flooded the  
10 world and thereby caused the beings to travel up into the Fourth World.

11 In the Fourth or White World<sup>5</sup>, *Ni' Hodisxqs*, the waters receded and the beings were  
12 free to move across the land. Monsters from the Third World terrorized the beings. It was  
13 at this time that *Asdzáá nádleehé*<sup>6</sup> (Changing Woman), the mother of all Navajo and one of  
14 the most beloved and revered deities in the Navajo culture emerged. Even Changing  
15 Woman's origins begin in water as she was found by *Haashch'éélti'i* (Talking God,), under  
16 a rainbow and surrounded by a cloud of mist, signifying the embryotic fluid in which all  
17 human life begins. Changing Woman matured into a woman and the first *Kinaaldá* (Female  
18 Puberty Ceremony) was performed. After her transition into womanhood, the Sun in the form  
19 of water, mated with Changing Woman and she conceived the Hero Twins, *Naayéé'*  
20 *Neizghání* (Monster Slayer) and *Tóbájíshchíní* (Child Born for Water) who rid the world of  
21 monsters. After the twins' journey and heroic events, Changing Woman was persuaded to  
22 travel to the Pacific Ocean. Along her journey she traveled throughout the LCR Basin and  
23 stopped at several locations that remain sacred to the Navajo people and are evidenced by  
24 natural features such as salt beds and rock formations. After reaching the Pacific Ocean, she  
25

26 <sup>5</sup> The *Diné Bahane* also includes a Glittering World. There are alternative accounts that  
27 consider the Glittering World to be the Fourth World or a separate Fifth World.

28 <sup>6</sup> Changing Woman is also known as *Yoolgaii Asdzáá* (White Shell Woman). In other  
accounts Changing Woman and White Shell Woman are separate beings.



1 ordered those who accompanied her to return to *Diné Bikéyah*, Navajoland. Before their  
2 departure, Changing Woman created four clans of Navajo to journey back with her  
3 companions, the *Kinyaa'áanii* (Towering House clan), *Honágháahnii* (One-Walks-Around  
4 Clan), *Tódich'ii'nii* (Bitter Water clan) and *Hashtl'ishnii* (Mud clan). On their way home,  
5 others joined the journey back to Navajoland and thereby created new clans of Navajo.

6 Once the earth and universe were in order, the Holy People realized all their creation  
7 would need to be cared for and provided the *Diné* with instructions to keep all things in  
8 harmony and balance - *hózhó*. Instructions were acquired by individuals who made specific  
9 journeys to seek knowledge and/or overcome obstacles. The accumulated knowledge gained  
10 by these individuals is memorialized in songs, prayers, ritual preparations, sacred items,  
11 sandpaintings, and ceremony. This acquired knowledge provides guidance to the *Diné* for  
12 obtaining healing from specific ailments, ensuring healthy crops with plentiful precipitation,  
13 protecting the home and person, gathering medicines, obtaining food, giving thanks for  
14 resources, and other requests by the *Diné* that can be bestowed by the Holy People.

15 Traditional *Diné* hydrology is incorporated in ceremonial narratives though the  
16 mention of water beings and their relation to other Holy People, the earth, and the cosmos.  
17 Water beings such as *Tó Asdzáá* (Water Woman), *Tobiyaazh* (Child of Water),<sup>7</sup> *Tééhooltsódii*  
18 (Water Monster), *Tó Neinilí* (Water Sprinkler), *Tooh líí'* (Water Horse), *Ghaan'ask'idii*  
19 (Humpback God), *'Ii'ni* (Thunder), *Atsinilt'ish* (Lightning), *Náts'ilid* (Rainbow),  
20 *Zahadolzha* (Water Fringe Mouth), Great Water Coyote, Spreading Stream, Dragonfly,  
21 Toad, Frog, Rainboy, Raingirl, Otter Woman, and Beaver Man are among the pantheon of  
22 Holy Beings that reside in, control, protect, represent, embody, or manifest water. Each holds  
23 a story, teaching, and purpose in the Navajo ceremonial narratives and understanding of the  
24 hydrological system.

25 *Bodies of water*

26 During the creation of the world, the *Diné* were given six sacred mountains and four  
27

28 <sup>7</sup> Not to be confused with the Hero Twin Child Born for Water.

1 sacred rivers. Among those rivers, the Little Colorado River, *Bits'íís nineez*, serves as the  
2 southern boundary of Navajoland with the Colorado River, *Tooh*, serving as the western  
3 boundary. Traditional Navajos and medicine people, *hataalii*, make offering to the  
4 mountains and rivers for the well-being of the *Diné*. The mountains and rivers are revered  
5 and significant to all traditional Navajo and in all Navajo ceremonies.

6 Other bodies of water are of great importance to Navajo people. All bodies and forms  
7 of water are sacred, including springs, which are nature's way of providing for the people.  
8 Springs are thought to be children of the ocean. Several springs are associated with Changing  
9 Woman's journey to the Pacific or with locations shared by the Holy People denoting where  
10 certain herbs or medicines could be found.

11 *Offerings for water*

12 The four sacred crops gifted to the *Diné* by the Holy People are corn, squash, beans  
13 and tobacco. In sandpaintings, the crops are usually represented with a small bowl of water  
14 connecting them at its center, symbolizing water as the elemental source and nourishment of  
15 these plants. As with all gifts bestowed by the Holy People, each plant has a sacred story  
16 and purpose. Chief among these plants is corn. Corn is planted in moist soil, watered,  
17 spreads its shoots, develops the male tassels to produce pollen and female silks to catch it,  
18 and grows new ears. Corn holds the promise of life. Like the cornstalk's lifecycle, humans  
19 are born, nourished, mature, and return to the earth. Corn and its products nurture Navajo  
20 life, Navajo animals, and the Holy People.

21 Offerings are often made to the Little Colorado River. These offerings are swept  
22 down to Grand Falls, on to the confluence, to the Colorado River, and then to the ocean. It  
23 is believed that the offerings find the various sea creatures who in turn send rain clouds back  
24 to the Navajo people. *Hataalii* make offerings in general for assistance or prior to a ceremony  
25 for positive results for the patient seeking healing. Water Way ceremony practitioners make  
26 daily offerings using natural substances such as cut wood, jewels, and corn pollen, and  
27 alternate prayers to the female and male waters. Prayers are made to perpetuate the runoffs,  
28 the tributaries, and the main stem of the Little Colorado River. Non-*Hataalii* offerings are

1 also made by traditional Navajo for various personal reasons and to various water sources or  
2 sources where water was once present. Often, travelers will make offerings prior to crossing  
3 a large water body and ask for a safe journey and return.

4 *Collection of water and water-loving plants for ceremonial and medicinal use*

5 Water is a requisite element in any ceremony because it is a sacred substance, one of  
6 the foundational elements of the universe and life. For ceremonies, it is essential to collect  
7 natural and clean water. Often times, "mixed water" or water combined from different  
8 sources such as streams, springs, or the ocean, provide different kinds of power and thus  
9 greater healing potential for the patient. Traditionally, four kinds of water were required for  
10 this mixture, spring or stream water from the east, hail water from the south, rainwater from  
11 the west, and snow water from the north. In the Nightway ceremony, a drop of the mixed  
12 water is placed on the tip of the ceremonial cigarette filled with tobacco. Mixed water is also  
13 thrown on the coals of a juniper fire to cool them at the end of the ceremony. Water and  
14 mixed water are also used in salves and drinks accompanying the ceremony.

15 In the major Holy Way ceremonies such as Shooting Way, Mountain Way, Water  
16 Way, and Night Way, sandpaintings are required to heal the patient. A vessel of water  
17 typically sits at the center and is the starting point of the painting, symbolizing the element  
18 as the foundation of all things. Sandpaintings may incorporate a vast array of water forms  
19 such as rainbows, clouds, sundogs, thunder, water animals, and sacred water deities.

20 Preparation for any ceremony requires the gathering of specific water-loving plants.  
21 Some of the major water-loving plants used in Navajo ceremonies include but are not limited  
22 to:

- 23 • soapweed yucca (*Yucca glauca*);
- 24 • milkweed (*Asclepias sp.*);
- 25 • bitterweed (*Hymenoxys richardsonii*);
- 26 • Parry bellflower (*Campanula parryi*);
- 27 • prickly Russian thistle (*Salsola tragus*);
- 28 • black greasewood (*Sarcobatus vermiculatus*);

- gooseberry (*Ribes cereum*);
- scarlet globemallow (*Sphaeralcea coccinea*);
- ponderosa pine (*Pinus ponderosa*);
- cheatgrass (*Bromus tectorum*);
- common reed (*Phragmites australis*);
- curly-leaf dock (*Rumex crispus*);
- mountain mahogany (*Cercocarpus montanus*); and
- cottonwood (*Populus sp.*).

Of all the water-loving plants, corn serves as one of the most important and is used in all Navajo ceremonies. Corn pollen, *tádidíín*, is an intermediary to connect with the Holy People to ensure life, health, and harmony. Corn pollen is so central to Navajo ceremonial practices that a ceremony will not begin without it and it is always carried by *Hataałii*. Without corn or its pollen, there can be no healing, potentially leaving the patient in a worsened condition. Corn meal and pollen are used in ceremonial and daily prayer, scattered over items as blessings, strewn as offerings to the Holy People, and applied to sanctify, consecrate, or purify special and sacred use of items.

#### *Ceremonial bathing and other uses of water*

Ceremonial bathing is a regular part of the healing or protection of patients in various types of ceremonies. Bathing serves two purposes; first, it cleanses the patient to wash away old actions that may be contributing to the ailment and second, it renews the patient for better health and restoration of a more harmonious life. Bathing is a symbolic reenactment of Navajo emergence into the Fourth World. As the people were escaping, they were dirty and covered in mud. The Holy People required them to cleanse before they interacted with the new world. The body and non-physical self are cleansed by the water held by the traditional Navajo wedding basket and the songs sung by the *Hataałii* during the bath and thus connect the patient to the Holy People. For example, in *Kinaaldá*, the pubescent girl embodies Changing Woman and is sung over in a Beauty Way ceremony, *Hózhóji*. During the ceremony, her hair, face, and jewelry are washed with yucca before she makes her final run



1 and enters womanhood. She is also painted with a paste made of water and white clay.

2 In addition to ceremonial bathing, water is used for other aspects of a ceremony such  
3 as drinking, cooking, and making special items connected to the ceremony. Patients in small  
4 ceremonies as well as larger gatherings use significant amounts of water to prepare food for  
5 visitors, provide drinking water, and for animals that will be consumed during the ceremony.  
6 In *Kinaadlá*, a special offering of a corn cake, *alkaan*, is made to the Sun prior to a girl's  
7 Blessing Way ceremony. Preparation of the cake requires numerous water-loving plant  
8 products and water, including greasewood sticks for stirring, corn husks soaked in water for  
9 lining, approximately 100 pounds of corn meal, barrels of boiling water for the mix, wheat  
10 germ to smooth and sweeten the cake, and ground yellow and white corn to bless the cake.

#### 11 IV. CULTURAL/UNIQUE TRIBAL WATER CLAIMS

##### 12 A. Purpose of Springs

13 Springs are a common source for cultural and unique tribal water uses within the  
14 Navajo Reservation.<sup>8</sup> "Anywhere there is a natural spring coming out of the earth, it is  
15 always considered to be a sacred place, because it is nature's way of taking care of the living  
16 beings on earth." Klara Kelley, *An Inventory of Water-Related Places Culturally Important*  
17 *to Diné in the Little Colorado River Basin* at 5 ("Kelley, *Inventory of Culturally Important*  
18 *Places*"). In addition, springs serve as locations for offerings for rain to water the earth and  
19 plants, maintain a habitat for water animals, and to nourish the most sacred of Navajo crops.  
20 Springs are a source for the collection of water and water-loving plant used in ceremonial  
21 settings. Finally, springs serve as a reminder of the Navajo creation and universe, serving as

---

22 <sup>8</sup> "Under Navajo practice and beliefs, all living beings, including animals, are considered  
23 sacred and are essential in maintaining *hózhó* (harmony/balance). Animals have much to  
24 offer and much to be responsible for in the development of the Navajo Way of Life. The  
25 raising of livestock is and has been a key aspect of the Navajo culture throughout the history  
26 of the Navajo people. Livestock care and ownership is a sign of resourcefulness and  
27 prosperity. Livestock have been essential for meat, wool, transportation, ceremonial  
28 practice, and contribute to the Navajo family economy." *Navajo Nation's First Amended*  
*Statement of Claimant-Phase I Claims (Stock Ponds, Stock/Wildlife Watering and DCMI)* at  
7-8 ("*Amended Statement of Claimant – Phase I*"). Use of the springs for agriculture,  
domestic, and stock/wildlife have been or will be claimed in other statements of claimant as  
ordered by the Special Master.

1 the home of certain Holy Beings.

2 B. Approach to Inventorying the Springs

3 The “Spring Inventory”<sup>9</sup> is based on the compilation and merger of relevant databases  
4 that include information on wells and springs within the LCR Basin in Arizona, including:

5 (i) the 1995 Wells and Springs Inventory which was completed in 1995, to which water  
6 sources have been updated but new sources have not been added, (ii) the Navajo Nation  
7 Water Management Branch Wells and Springs Database, and (iii) refined analysis of claims  
8 in response to the Preliminary Navajo Reservation Hydrographic Survey Report within the  
9 LCR Watershed (Mar. 2019) prepared by ADWR, and (iv) further work by the Navajo Nation  
10 and United States to reach a consensus on the claimed features.<sup>10</sup> *See Amended Statement of*  
11 *Claimant – Phase I* at 11; *The Navajo Nation’s First Supplement to Its First Amended*  
12 *Statement of Claimant – Phase I Claims (Stock Ponds, Stock/Wildlife Watering, & DCMI)* at  
13 2 (“*Supplement to Amended Statement of Claimant – Phase I*”).

14 Klara Kelly and the Navajo Heritage and Historic Preservation Department have  
15 compiled inventories of water-related places culturally important to the *Diné* in the LCR  
16 Basin and significant traditional cultural properties that have been documented or relayed by  
17 holders of such information. These culturally significant areas have been used by the *Diné*  
18 to bring forth or manage water. Kelley, *Inventory of Culturally Important Places* at 1.

19 C. Calculating Spring Capacity

20 Inventories include, when available, flows from the springs.

21 D. Summary of the Springs in the LCR Basin on the Navajo Reservation

22 There are 645 springs on the Navajo Nation within the LCR Basin in Arizona. Every  
23 spring holds cultural and unique tribal significance. The Navajo Nation claims the right to  
24

25 <sup>9</sup> *See Navajo Nation’s First Supplement to its First Amended Statement of Claimant – Phase*  
26 *I* (July 18, 2019) at Exhibit B.

27 <sup>10</sup> The background history of the 1995 Wells and Springs Inventory and the Navajo Nation  
28 Water Management Branch springs and wells inventory is included in the *First Amended*  
*Statement of Claimant – Phase I Claims (Stock Ponds, Stock/Wildlife Watering, & DCMI)* at  
11-12.

1 use water from the 645 springs<sup>11</sup> for cultural, unique tribal, and riparian uses with a priority  
2 date of time immemorial.

### 3 V. RECREATIONAL WATER CLAIMS

4 The Navajo Nation has historically and currently provides opportunities for recreation  
5 associated with a number of man-made lakes,<sup>12</sup> including hiking, camping, swimming,  
6 fishing, and use of watercraft.<sup>13</sup> With respect to fishing, the Navajo Nation provides  
7 recreational fishing opportunities to both tribal and non-tribal populations. Revenue from  
8 the sale of fishing licenses is essential to the Navajo Nation Department of Fish and Wildlife  
9 (“NNDFW”) and the economic development of the Navajo Nation. The NNDFW and United  
10 States Fish and Wildlife Services (“USFWS”) stock the reservoirs with various species  
11 depending on their categorization as “coldwater,” “warmwater,” or “mixed.” Glenn Selby,  
12 NNDFW & Chris Kitcheyan, USFWS, *Navajo Nation Fisheries Management Plan 2020-*  
13 *2024* at 4 (“*Fisheries Management Plan*”). Currently, only two species of fish, Rainbow  
14 Trout (*Oncorhynchus mykiss*) and Channel Catfish (*Ictalurus punctatus*), are stocked  
15 annually into four tribal lakes that are within the LCR Basin, White Mesa Lake, Cow Springs  
16 Lake, Antelope Lake, and Ganado Lake. *Id.* Largemouth Bass (*Micropterus salmoides*),  
17 Bluegill (*Lepomis macrochirus*), and Brown Trout (*Salmo Trutta*) are occasionally stocked.  
18 In 2011, the Largemouth Bass stockings on the Nation were discontinued due to the detection  
19 of Largemouth Bass virus in their federal hatcheries. *Id.*

20 White Mesa Lake is a cold-water reservoir located twenty-one miles north of Tonalea.  
21 The lake sits at an elevation of 5,990 feet and is fed by the seasonal runoff of natural springs  
22 with water levels fluctuating year to year. During the high-water years, it is restocked with  
23 Rainbow Trout. Largemouth Bass also occupy the lake. The lake has a surface area of

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24 <sup>11</sup> See *supra* note 9.

25 <sup>12</sup> “Lake(s)” and “reservoir(s)” are used interchangeably in this section.

26 <sup>13</sup> The Navajo Nation receives approximately 589,064 tourists annually. Northern Arizona  
27 University, *2011 Navajo Nation Visitor Survey* at 39. Tourists participate in a range of  
28 activities while on the Nation including but not limited to the following: fishing, camping,  
swimming, boating, hiking, sightseeing, and wildlife watching. *Id.* at 23.

1 approximately 8.7 acres, a volume of 216.94 AF, and evaporation of 44.26 AFY.<sup>14</sup>

2 Cow Springs Lake is a warm-water reservoir located approximately thirty miles  
3 northeast of Tuba City. The lake sits at an elevation of approximately 5,660 feet and is fed  
4 from a natural spring and seasonal runoff. It supports Largemouth Bass, Bluegill, and White  
5 Crappie (*Pomoxis annularis*). Largemouth Bass were last stocked in 2010. Gizzard Shad  
6 (*Dorosoma cepedianum*), Green Sunfish (*Lepomis cyanellus*), Bigscale Logperch (*Percina*  
7 *macrolepida*) and Smallmouth Buffalo (*Ictiobus bubalus*) are also present. The lake has a  
8 maximum surface area of approximately 144.6 acres, a volume of 1,157.03 AF, and  
9 evaporation of 737.61 AFY.

10 Antelope Lake is a cold-water reservoir located approximately sixteen miles  
11 southwest of Window Rock and sits at an elevation of 7,320 feet. The lake is fed by surface  
12 runoff. When conditions are favorable, it is stocked with Rainbow Trout. It has a surface  
13 area of approximately 9.5 acres, a volume of 142.56 AF, and evaporation of 48.47 AFY.

14 Ganado Lake is a warm-water reservoir located approximately two miles northeast of  
15 Ganado and sits at an elevation of 6,431 feet. The lake supports Channel Catfish, Bluegill  
16 and Largemouth Bass and produces abundant aquatic vegetation during the summer months.  
17 The lake has a surface area of 401.7 acres, a volume of 3,750 AF, and evaporation of 2,048.91  
18 AFY.

19 The Nation's *Fisheries Management Plan*, provides goals and objectives to manage,  
20 maintain, enhance, and conserve the fishery resources on the Nation. One of these goals is  
21 to encourage long-term management of sport fish populations and their habitats on the Nation  
22 by setting guidelines for maintaining, enhancing, restoring, and managing the quality,  
23 abundance, availability, and diversity of recreational fishing opportunities of all its fisheries  
24 including those located in the LCR Basin. *Id.* at 10.

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25  
26 <sup>14</sup> The NNDWR has provided the data for this Amended Statement of Claimant and is  
27 incorporated herein. The *Fisheries Management Plan* by the NNDFW provides data that  
28 diverges in some respects from the information provided here, primarily regarding surface  
areas of the lakes. The methodology used to collect lake data by NNDFW is unknown.



1 In addition to the four reservoirs that are stocked with fish, the Navajo Nation  
2 Department of Water Resources (“NNDWR”) has identified the following bodies of water  
3 as additional recreational sources within the LCR Basin on the Navajo Reservation:

- 4 • Greasewood Lake;
- 5 • Red Lake #1;
- 6 • Tucker Flats;
- 7 • Gambler Lake;
- 8 • Forest Lake;
- 9 • Int. Lake Gate;
- 10 • Hidden Lake;
- 11 • Wild Cow Lake;
- 12 • Tanner Springs Lake;
- 13 • Canyon Diablo Dam;
- 14 • Unnamed lake, FID 2431; and
- 15 • Unnamed lake, FID 2432.

16 The Navajo Nation claims a past and present non-consumptive water use of 13,252.49  
17 AF based on each reservoir’s maximum storage volume for recreational uses and an  
18 evaporation refill rate of 8,092.89 AFY. The Nation relies on the historical data recorded  
19 and maintained by the Navajo Nation, NNDFW, and the USFWS, and upon future plans  
20 envisioned by the Nation. The Nation claims a priority of the 1849 Treaty for these  
21 recreational uses. Exhibit 2, “Lakes Inventory,” describes all of the recreational lakes within  
22 the LCR Basin on the Navajo Reservation.

## 23 VI. FISH, WILDLIFE, AND CONSERVATION – RIPARIAN CLAIMS

24 The lands and waters located within the aboriginal and current boundaries of the  
25 Navajo Nation serve as a natural habitat for many native species. The Navajo people have  
26 depended on the waters to nourish the land, native plants, and animals for their domestic,  
27 artistic, medicinal, spiritual, and cultural uses since time immemorial. The sacred teachings  
28 of these uses and way of life begin with the creation of the Navajo universe and have passed

1 from generation to generation. Navajo aboriginal territory and the current Navajo reservation  
2 are located within the four sacred mountains provided by the *Diyin Diné* (Holy People), and  
3 the *Diné* were instructed to care for and maintain these lands for the future generations to  
4 come. Finally, the landscape and its natural beauty contribute to the attraction of hundreds  
5 of thousands of tourists, game hunters, sport fisherman, and other visitors to the Nation.

6 A. Non-consumptive Flows to Protect Native Fish

7 Kin Li Chee Creek (*Kin lichii* Creek), Black Soil Wash (*Tse Déeshzháái* Wash), and  
8 Scattered Willow Wash (*Tiis Ndiit'sooi* Wash) provide indigenous habitat for one of the three  
9 native fish species within Navajo waters, the Zuni Bluehead Sucker (*Catostomus discobolus*  
10 *yarrow*)<sup>15</sup>. *Fisheries Management Plan* at 4. On July 24, 2014, the USFWS listed the species  
11 as endangered with the proposed rule to designate a critical habitat. 79 FR 43132. The “Kin  
12 Li Chee Creek Unit”, including Black Soil Wash and Scattered Willow Wash was originally  
13 proposed to be included as part of the critical habitat for the Zuni Bluehead Sucker. 81 FR  
14 36776. However, to promote Navajo tribal sovereignty, enhance tribal and federal relations,  
15 and acknowledge the Navajo Nation’s owns laws, regulations, and plans to protect  
16 endangered or sensitive species, the Navajo lands were not included in the federal  
17 designation. *Id* at 36778.

18 For purposes of this Amended Statement of Claimant, the Nation relies on the Primary  
19 Constituent Elements (“PCE”) of critical habitat for the Zuni Bluehead Sucker, as provided  
20 in 79 FR 36769. PCE for the Zuni Bluehead Sucker include a riverine system with habitat  
21 to support all of its life stages (egg, larval, juvenile, and adult):

- 22 • Flows that allow for periodic changes in channel morphology and adequate river  
23 functions, such as channel reshaping and delivery of coarse sediments;
- 24 • Stream courses of perennial flows, or areas that may be periodically dewatered but  
25 serve as connective corridors between occupied habitat and through which the

26  
27 <sup>15</sup> For the purposes of this Amended Statement of Claimant, the Nation adopts the English  
28 terms for these resources because they are used in the *Fisheries Management Plan* and the  
Federal Register.

species may move when the habitat is wetted;

- Stream microhabitat types including runs, riffles, and pools with substrate ranging from gravel, cobble, and bedrock substrates with low or moderate amounts of fine sediment and substrate embeddedness;
- Streams with depths generally less than 3.3 ft, and with slow to swift flow velocities less than 1.1 ft/sec; and
- Clear, cool water with low turbidity and temperatures in the general range of 9.0 to 28.0 °C (48.2 to 82.4 °F). *Id.*

The critical habitats within the LCR Basin on the Navajo Nation in which the Zuni Bluehead Sucker have been and continue to be found include:

**Kin Li Chee Creek** - Kin Li Chee Creek begins at an elevation above 7,000 feet and is located on the Defiance Plateau. Portions of this creek are subject to drying during periods of low precipitation. Pools are the primary habitat for Zuni Bluehead Sucker that are present. *Fisheries Management Plan* at 22.

**Black Soil Wash** - Black Soil Wash is located on the Defiance Plateau at an elevation of over 7,400 feet. Stream habitat consists mostly of pools and some riffles. Zuni Bluehead Sucker are present in the creek. Portions of the stream are subject to intermittency and drying during periods of low precipitation and are impacted by domestic livestock grazing. *Id.* at 23.

**Scattered Willow Wash** - Scattered Willow Wash is located on the Defiance Plateau at an elevation of over 7,300 feet. Pools are the primary habitat in Scattered Willow Wash with portions of the stream subject to drying during periods of low precipitation. Aquatic vegetation is abundant in pools. Zuni Bluehead Sucker are found in the stream. *Id.*

The Navajo Nation claims sufficient water to provide a critical habitat for the endangered Zuni Bluehead Sucker. The Nation has an equivalent environmental process to that of the federal National Environmental Protection Act ("NEPA") and has identified the habitat for the Zuni Bluehead Sucker as a highly sensitive area. The Nation relies on the historical data recorded and maintained by the Navajo Nation, NNDFW, USFWS, and future

plans envisioned by the Nation. The tribe claims a priority of time immemorial for this claim.

B. Wildlife and Conservation (“Riparian”) Claim

The Navajo Nation asserts a non-diversionary claim of sufficient water to protect, maintain, and restore the cultural, aesthetic, and ecological flows of all rivers, and ephemeral and intermittent washes across the LCR Basin within the Navajo Reservation. The Navajo Nation claims 14,598 acres of riparian and wetland habitat. Using an average evaporation rate of 903.5 mm/yr, the Navajo Nation claims 35,873 AFY to maintain its unique ecosystems within the LCR Basin.

1. Approach to identifying the riparian areas

Utilizing tools in ESRI’s ArcGIS, Navajo Nation experts classified 2014/2015 National Agriculture Imagery Program (“NAIP”) imagery within the LCR watershed on the Navajo Nation in Arizona to quantify the amount of riparian vegetation in the area. An analysis of spatial data, including NHDPlus HR, NAIP Imagery, CO-RIP data, and USFWS NWI datasets for Arizona, allowed experts to map rivers and ephemeral and intermittent washes across the LCR Basin, classify three types of habitat, and ultimately identify 14,598 acres of riparian vegetation within those reaches. Exhibit 3, “Riparian Map” is a map of the riparian areas across the LCRB within the Navajo Nation.

2. Streamflow Creation

Riparian acreage was identified by overlapping the boundaries of the LCR watershed and the Navajo Nation and selecting only those areas that appear within both to create an LCR Basin shapefile. To identify the tributaries and rivers that are within the LCR watershed, consultants processed the NHDPlus HR DEM dataset using a raster calculator to identify all areas that drain greater than 50 acres of land to produce a raster map. The raster calculation process utilizes an analysis of slope direction and elevation to identify how water would flow in the system, but in areas of limited slope, minor errors are produced which require visual inspection and manual manipulation to correct. The raster dataset is converted to a polygon dataset to ease this process. Using imagery, including NAIP, CO-RIP data, NWI datasets, the polygon dataset is visually inspected to identify errors in location and missing



portions of tributaries and rivers. These sections are manually adjusted to reflect the imagery more accurately. In order to reach the acreage to be evaluated, the tributaries were also visually analyzed to identify dry washes. These drainages either are isolated and do not connect to the LCR system, or are ephemeral, dry washes that do not have the potential to contain riparian vegetation.

### 3. Identified Areas in Need of Restoration

The Navajo Nation has preliminarily identified areas in need of restoration, including but not limited to:

- *Tó doot'izh* (Blue Springs) in the LCR Gorge and flowing into the Confluence;
- *Toyee'* or *To Alchini Hasdzis* (Fearsome Water Spring or Natural Spring Gully)/Pasture Canyon lands on the Navajo Nation;
- *Ádahilíni*/Grand Falls reach of the LCR;
- *Béégashii bii'tó* (Cow Springs);
- *Be'ek'id halchii'* (Red Lake)/Red Lake;
- *Ahoyoolts'i* (Sinkhole)/Jacob's Well;
- *Baah lok'aa* (Reeds Upside It)/Balakai Mesa Ganado;
- *Baa'oogeedi* (Where It Was Dug Into)/White Cone and Indian Wells;
- *K'ai bii'tó* (Willow Springs)/Kaibito Springs near Teesto and Polacca;
- *K'ai si'ání* (Stout Willow)/Tanner Springs Sanders; and
- *Tó hajileeh* (Place Where You Bring Water Up)/Indian Wells.

## VII. MINING RELATED WATER CLAIMS

The Navajo Nation makes a claim for water use for mining for a permanent homeland based on the maximum historic use of water for mining by Peabody Western Coal Company at Black Mesa. All water used by Peabody is groundwater. It was produced from eight wells, identified as PWCC-2 through PWCC-9. PWCC-9 is located on the Hopi Reservation, while the remaining 7 wells were located on the Navajo Reservation. Use began at the Peabody mines on Black Mesa in 1968 and it wasn't until 1983 that water was first pumped for PWCC-9, the sole well located within the Hopi Reservation. The maximum annual use from

PWCC-9 was 729 AF in 2004. However, the wells were operated as an integrated system. The maximum water produced by the integrated 8-well field in one year was 4,740 acre feet was in 1982, when both the Black Mesa Mine and the Kayenta Mine were in production.<sup>16</sup> If the number of wells on Navajo is 7 of the 8, the maximum water pumped from well field in the maximum year is 7/8ths of the total pumping or 4,147.5 acre feet.<sup>17</sup> Based on this historic use, the Navajo Nation claims 4,147.5 AFY for a permanent homeland.

## VIII. HEAVY INDUSTRIAL/COMMERCIAL CLAIMS

The Navajo Nation has engaged an expert to identify energy projects that meet the requirements of *Gila V* to support a permanent homeland for the Navajo people. The Nation looks to renewable energy sources to satisfy much of its own energy needs and for sale in the national energy grid. Many of the renewable energy sources use limited amounts of water which will be satisfied as part of the Nation's DCMCI claim to be addressed in Phase I. However, large energy projects necessary to support a permanent homeland would require substantial non-DCMCI water. The United States has identified a number of energy projects. *United States' Amended Statement of Claimant on Behalf of the Navajo Nation (Phase II)* (dated October 7, 2020). In addition, the Navajo Nation identifies the following projects and the related water needs:

1. Concentrated Solar Generation. The Nation claims water for a 1 gigawatt concentrated solar plant using a wet cooling system with a water demand of 5,290 AFY.<sup>18</sup> Concentrated solar power plants work on the principle of collecting solar

<sup>16</sup> While the maximum year of water production occurred in 1982, when the Hopi well had not yet gone into production, the Navajo Nation has taken the position that 1/8th of the water produced in the maximum year should be allocated to the Hopi Tribe as the wells were operated as an integrated system.

<sup>17</sup> The allocation of a water right based on past and present mining was litigated in the Hopi case, Case No. CV6417-203, Past and Present trial, no determination has yet been made as to how the Special Master intends to allocate the water use by and between the Hopi Tribe and the Navajo Nation.

<sup>18</sup> The United States has included a concentrated solar plant in its Amended Statement of Claim – Phase II, as well. It appears that the plant is about half the size of the proposed

energy over a large area and concentrating it into a small area thereby producing high temperatures that can be used in a thermal process. One of the principal advantages of concentrated solar power is that thermal energy can be stored, so that output can be provided after the sun goes down, and scheduled to meet demand requirements. For example, the Solana Generating Station near Gila Bend, Arizona, is designed to provide six hours of energy storage.

2. Small Modular Nuclear Reactors. The Navajo Tribal Utility Authority has been in discussion with NuScale Power, which has received full certification for Small Modular Reactors ("SMRs") from the U.S. Nuclear Regulatory Commission. The Nation is exploring installation of such reactors. As one scenario, the Nation could locate twelve 60 megawatt modular nuclear reactors within the LCR Basin. The light water modular reactor is designed for flexible operations that complement renewable energy generation sources. The modular reactor runs on conventional nuclear fuel, enriched to less than 5% Uranium-235. This uranium is sourced from approved mines in Canada, Australia, and other locations, but not the Navajo Nation or any sites nearby. Used fuel is stored underwater in a stainless steel lined concrete pool for at least 5 years and dry cask stored thereafter. Spent radioactive material can be shipped off reservation to another powerplant with storage capacity. The SMRs are designed for an operating life of 60 years. The cooling water necessary to support twelve 60 megawatt modular nuclear reactors would be 13,688 AFY.

3. Pumped Storage. The Nation claims water to develop a pumped storage facility to be located in Big Canyon, a side canyon of the Little Colorado River. This pumped storage project, with a generating capacity of 3,600 megawatts, is the subject of a preliminary permit from the Federal Energy Regulatory Commission. Such facilities are a common and tested method of energy storage. They offer the advantage of providing power for peak demands while being less expensive to build and operate

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Navajo plant as it proposes to use a wet cool technology that would require 2,440 AFY.

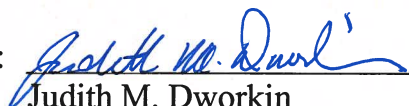
1 than a standard generating station, which could sit idle most of the time. In typical  
2 operation, inexpensive off-peak power is used to pump water from a lower basin to  
3 an upper basin. When power is needed during a period of peak demand, water can be  
4 quickly released from the upper basin, run through a penstock and turn a turbine-  
5 generator in the same manner as any hydroelectric dam. The initial fill in the upper  
6 impoundment requires 29,000 AF and in the lower impoundment 44,000 AF of water.  
7 An estimate of the annual evaporation from the impoundments is an average of 7,500  
8 AFY.

9 **IX. THE UNITED STATES CLAIMS**

10 The Nation supports the claims for water use identified by the United States as Trustee  
11 for the Navajo Nation provided in *United States' Amended Statement of Claimant on Behalf*  
12 *of the Navajo Nation (Phase II)* (dated October 7, 2020).

13 **X. SUMMARY**


14 The Navajo Nation's Amended Statement of Claimant – Phase II Claims is for those  
15 waters which arise from, flow through or over, and lie under the lands of the Navajo Nation.  
16 To the extent that such waters are insufficient to meet the permanent homeland needs of the  
17 Navajo Reservation within the LCR Basin, the Nation reserves the right to obtain water from  
18 other sources to meet its federal reserved rights. Furthermore, the Nation reserves the right  
19 to further amend this Amended Statement of Claimant – Phase II prior to the conclusion of  
20 hearings by the Special Master in this subproceeding as provided by A.R.S. § 425-254(E)(2).

21  
22  
23 By:   
24 Judith M. Dworkin  
SACKS TIERNEY P.A.

25 M. Kathryn Hoover  
26 NAVAJO NATION DEPARTMENT OF JUSTICE  
27 *Attorneys for the Navajo Nation*  
28



**SACKS TIERNEY P.A., ATTORNEYS**  
4250 NORTH DRINKWATER BOULEVARD  
FOURTH FLOOR  
SCOTTSDALE, ARIZONA 85251-3693

 LAKOTA LONG  
Notary Public - Arizona  
Apache County  
Commission # 568988  
My Comm. Expires Jun 14, 2023

**CERTIFICATE OF SERVICE**

**ORIGINAL** of the foregoing Hand-Delivered for filing this 7th day of October, 2020, to:

Arizona Department of Water Resources  
c/o Thomas Buschatzke, Director  
1110 W. Washington Street, Suite 310  
Phoenix, Arizona 85007

**COPIES** of the foregoing sent via U.S. Mail this 7th day of October, 2020, to:

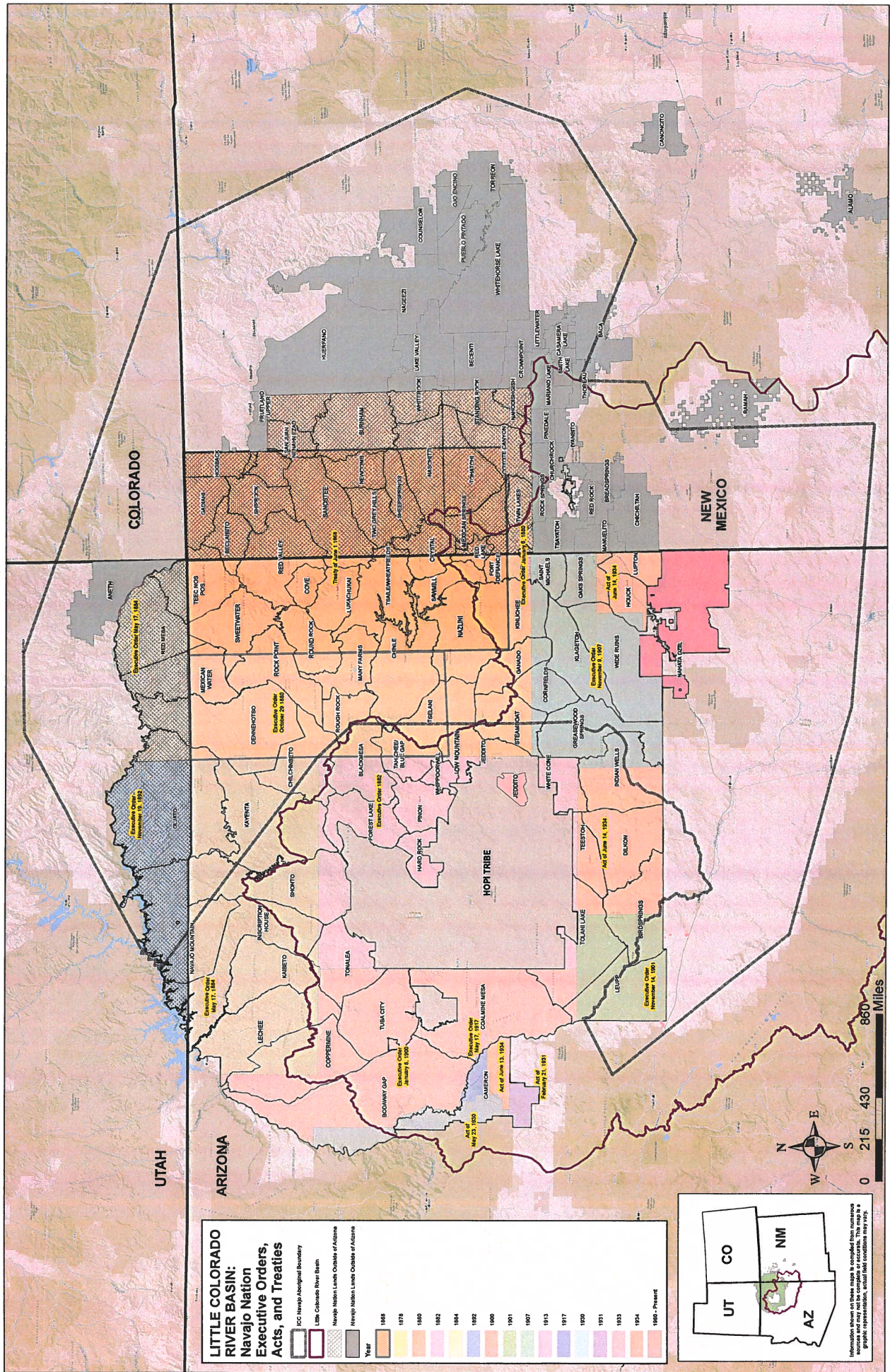
Annell Hounshell, Clerk of the Court  
APACHE COUNTY SUPERIOR COURT  
Attn: Water Clerk  
70 West Third South  
St. Johns, Arizona 85936

All parties on the Court Approved Mailing List,  
*In re Navajo Nation*, Contested Case No. 6417-300, dated August 26, 2020

  
Michelle Curtsinger

# Exhibit 1







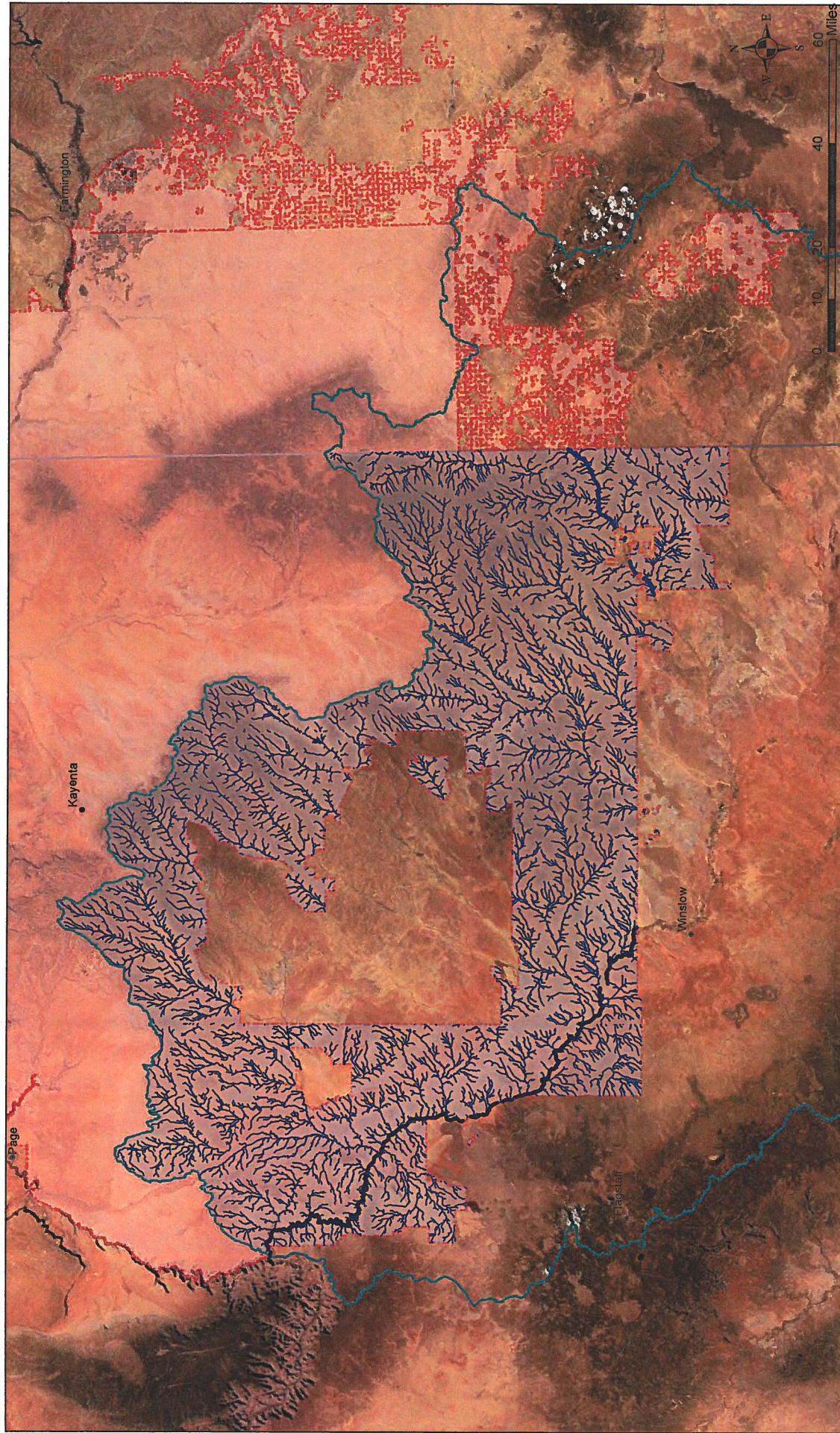
# Exhibit 2

| 07/08/2019<br>Submitted<br>Claim<br>FID | Survey ID | Quad<br>Number | Quad Name           | Common<br>Names        | Elevation | County | Chapter | Length<br>(ft) | Width<br>(ft) | Depth<br>(ft) | Area<br>(acres) | Volume<br>(acre-ft) | Evap Depletion<br>(acre-ft/yr) | X_COORD  | Y_COORD |
|---|-----------|----------------|---------------------|------------------------|-----------|--------|---------|----------------|---------------|---------------|-----------------|---------------------|--------------------------------|----------|---------|
| 1578                                    | L-001     | 36111-B.1      | MIDDLE MESA AZ      | GREASEWOOD<br>LAKE     | 5087      | CO     | TUBA    | 4500           | 4200          | 6             | 433.9           | 2,603.32            | 2,212.83                       | 489281   | 4002182 |
| 1398                                    | L-001     | 36110-C.8      | TONALEA AZ          | RED LAKE #1            | 5436      | CO     | RL#1    | 4800           | 1800          | 2             | 198.3           | 158.70              | 1,011.58                       | 506535   | 4019102 |
| 1275                                    | L-001     | 36110-D.7      | COW SPRINGS AZ      | COW SPRINGS<br>LAKE    | 5660      | CO     | RL#1    | 4500           | 1400          | 8             | 144.6           | 1,157.03            | 737.61                         | 511613   | 4028410 |
| 2041                                    | L-001     | 35110-B.7      | TUCKER MESA NE AZ   | TUCKER FLATS           | 4766      | CO     | BIRD    | 3250           | 3300          | 1             | 246.2           | 246.21              | 1,255.69                       | 520019   | 3891961 |
| 2279                                    | L-002     | 36110-D.2      | CLIFF ROSE HILL AZ  | GAMBLER LAKE           | 7070      | NA     | CHIL    | 610            | 630           | 6             | 8.8             | 52.93               | 44.99                          | 569428   | 4031775 |
| 2278                                    | L-001     | 36110-D.2      | CLIFF ROSE HILL AZ  | FOREST LAKE            | 7295      | NA     | FORE    | 610            | 400           | 6             | 5.6             | 33.61               | 28.57                          | 569842   | 4026043 |
| 615                                     | L-001     | 35109-F.5      | GANADO AZ           | GANADO LAKE            | 6431      | AP     | GANA    | 3500           | 5000          | 0             | 401.7           | 3,750.00            | 2,048.91                       | 633848   | 3955333 |
| 640                                     | L-001     | 35109-F.4      | KINLICHEE AZ        | INT.LAKE GATE          | 6491      | AP     | KINL    | 1560           | 1450          | 2             | 51.9            | 103.86              | 264.84                         | 636149   | 3956556 |
| 582                                     | L-001     | 35109-E.3      | ANTELOPE LAKE AZ    | ANTELOPE LAKE          | 7320      | AP     | KLAK    | 1150           | 360           | 15            | 9.5             | 142.56              | 48.47                          | 650601   | 3930362 |
| 587                                     | L-002     | 35109-E.3      | ANTELOPE LAKE AZ    | HIDDEN LAKE            | 7355      | AP     | OAKS    | 240            | 1280          | 5             | 7.1             | 35.26               | 35.97                          | 658064   | 3935123 |
| Not in Claim<br>07/08/2019              | Pond 2017 | 34109-H.2      | WILDCOW LAKE AZ     | WILD COW<br>LAKE       | 6527      | AP     | NAHA    | 356            | 219           | 0             | 1.8             | 1.79                | 9.13                           | 668641   | 3870077 |
| 2431                                    | LF-1-P    | 36110-E.1      | GREAT SPRINGS AZ    | N/A                    | 6596      | NA     | CHIL    | 1065           | 387           | 0             | 9.5             | 22.05               | 48.26                          | 553266   | 4037666 |
| 2432                                    | LF-3-P    | 36110-E.1      | GREAT SPRINGS AZ    | N/A                    | 6584      | NA     | CHIL    | 1370           | 362           | 0             | 11.4            | 26.53               | 58.07                          | 553311   | 4037834 |
| Not in Claim<br>07/08/2019              | P-001     | 35109-C.6      | TANNER SPRINGS AZ   | TANNER<br>SPRINGS LAKE | 5790      | AP     | LOWE    | 353            | 87            | 6             | 0.7             | 1.70                | 3.60                           | 619261   | 3905649 |
| 1617                                    | R-001     | 36111-D.1      | BIG WHISKER WELL AZ | WHITE MESA<br>LAKE     | 5990      | CO     | RL#1    | 1050           | 360           | 25            | 8.7             | 216.94              | 44.26                          | 499384   | 4031843 |
| Not in Claim<br>07/08/2019              | N/A       | N/A            | CANYON DIABLO AZ    | CANYON<br>DIABLO DAM   | 4753      | CO     | LEUP    | 6141           | 334           | 0             | 47.1            | 4,700.00            | 240.14                         | 500836   | 3904489 |
| TOTAL                                   |           |                |                     |                        |           |        |         |                |               |               |                 | 1,586.8             | 13,252.49                      | 8,092.89 |         |

Date 10/5/2020

# Exhibit 3





Coordinate System: NAD 1983 UTM Zone 12N  
 Projection: Transverse Mercator  
 Datum: North American 1983  
 Units: Meter  
 Dataset Credits: USGS, US EPA, Bureau of Indian Affairs

# Little Colorado River Streams of the Project Area

Navajo Nation  
 Little Colorado River Watershed  
 Project Area  
 Little Colorado River  
 Puerco River  
 Other Ephemeral and Intermittent Washes